

**Motion Sheet Re: Agenda Item No. 20 – Direct Campaign Expenditure
Disclosure Ordinance**

Council Meeting: June 23, 2016

Motion made by: Mayor Adler

Summary of Nine Amendments:

- Move to approve the ordinance in backup, with the amendments shown below.
- The amendments create new criteria for reporting and disclosing contributor information based on whether a contribution was made to a segregated bank account.
- The amendments slightly lower the reporting thresholds for direct campaign expenditures and covered transfers from exceeding \$500 to \$500, and raise the contributor reporting and disclosure thresholds from \$250 to \$500.
- The amendments clarify that the exception to the contributor reporting and disclosure requirements which applies when a contributor has prohibited use of a contribution for political purposes only applies if the recipient also abides by the prohibition.
- The amendments except from the definition of “covered transfer” a transfer made by a person who has not received any contributions from others during the current election reporting cycle.

Amendment 1: In Part 3 of the ordinance in backup, amend the definition of “Electioneering Communication” in Subsection (B)(1) of City Code Section 2-2-31 (*Definitions*) to lower the dollar threshold to \$500 or more as follows:

- (1) costs, or is part of a series of communications that in the aggregate cost, [~~more than~~] \$500 or more;

Amendment 2: In Part 3 of the ordinance in backup, amend City Code Section 2-2-31 (*Definitions*) to add new Subsection (E) to read as follows:

- (E) SEGREGATED BANK ACCOUNT means a bank account maintained by a person who makes one or more direct campaign expenditures or covered transfers, consisting of funds that were paid directly to such account by persons other than the person that controls the account, used by that person to make direct campaign expenditures or covered transfers. A person who pays for direct campaign expenditures or covered transfers exclusively from a segregated bank account must only report information regarding contributions made to that account under Sections 2-2-32 (*Reporting of Direct Campaign Expenditures*), 2-2-33 (*Disclosure Statement Required*), and 2-2-34 (*Reporting of Covered Transfers*).

Amendment 3: In Part 4 of the ordinance in backup, amend Subsection (A) of City Code Section 2-2-32 (*Reporting of Direct Campaign Expenditures*) to lower the direct campaign expenditure reporting threshold from *exceeding \$500* to *meeting or exceeding \$500* as follows:

- (A) A person who makes one or more direct campaign expenditures in a City election that in the aggregate meet or exceed \$500[~~7~~] shall report:

Amendment 4: In Part 4 of the ordinance in backup, replace the proposed Subsection (A)(8) of City Code Section 2-2-32 (*Reporting of Direct Campaign Expenditures*) with the following language:

- (8) except as provided in subsection (A)(8)(c), if the person making the expenditure has accepted a contribution from another person during the current election reporting cycle:
 - (a) in the case of an expenditure exclusively paid for by funds contained in a segregated bank account, for each contributor to the account who made contributions in an aggregate amount of \$500 or more during the current election reporting cycle that have not previously been reported under this subsection:
 - (i) the full name and address of the contributor;
 - (ii) if the contributor is an individual, the individual's occupation and employer; and
 - (iii) the date and amount of each contribution received; or
 - (b) in the case of an expenditure paid for by funds other than funds contained in a segregated bank account, for each contributor who made contributions in an aggregate amount of \$500 or more during the current election reporting cycle that have not previously been reported under this subsection:
 - (i) the full name and address of the contributor;
 - (ii) if the contributor is an individual, the individual's occupation and employer; and
 - (iii) the date and amount of each contribution received.
 - (c) A person is not required to report a contribution under subsections (A)(8)(a) or (A)(8)(b) if:
 - (i) the contributor specified in writing that the contribution was not to be used for political contributions or direct campaign expenditures at the time that the contribution was made to the person making the expenditure, and the person making the expenditure did not use the contribution for political contributions or direct campaign expenditures;
 - (ii) the person making the expenditure received the contribution in a commercial transaction in the ordinary course of any trade or business conducted by the person; or
 - (iii) the person making the expenditure received the contribution from investments made by the person.

Amendment 5: In Part 5 of the ordinance in backup, replace the amendments to Subsections (A), (B), and (C) of City Code Section 2-2-33 (*Disclosure Statement Required*) with the following language:

- (A) Except as provided by subsections (C) and (D), in ~~[In]~~ addition to any other disclosure statement required by law, a person making the expenditure for a political advertisement, electioneering communication, or express advocacy, paid for in whole or in part by a direct campaign expenditure, using funds other than funds in a segregated bank account must conspicuously disclose on the communication the names of the five largest contributors who have each made contributions in an aggregate amount of \$500 or more ~~[donors in the preceding 12 months]~~ to the person making the direct campaign expenditure during the current election reporting cycle.
- (B) Except as provided by subsections (C) and (D), in addition to any other disclosure statement required by law, a person making the expenditure for a political advertisement, electioneering communication, or express advocacy, paid for in whole or in part by a direct campaign expenditure, using exclusively funds in a segregated bank account must conspicuously disclose on the communication the names of the five largest contributors to the account who have each made contributions in an aggregate amount of \$500 or more to the person making the direct campaign expenditure during the current election reporting cycle.
- (C) A contributor's name is not subject to disclosure under this section if:
 - (1) the contributor specified that the contribution was not to be used for political contributions or direct campaign expenditures at the time that the contributor made the contribution to the person making the expenditure, and the person making the expenditure did not use the contribution for political contributions or direct campaign expenditures;
 - (2) the person making the expenditure received the contribution in a commercial transaction in the ordinary course of any trade or business conducted by the person; or
 - (3) the person making the expenditure received contribution from investments made by the person.

Amendment 6: In Part 6 of the ordinance in backup, replace the proposed Subsection (B) of new City Code Section 2-2-34 (*Reporting of Covered Transfers*) with the following language:

- (B) The term “covered transfer” does not mean:
- (1) a contribution made by a person if that person prohibited, in writing, the use of that contribution for political contributions, direct campaign expenditures, or covered transfers, and if the person receiving the contribution did not use the contribution for political contributions, direct campaign expenditures, or covered transfers;
 - (2) a contribution made by a person in a commercial transaction in the ordinary course of any trade or business conducted by that person;
 - (3) a contribution made by a person in the form of an investment made by that person; or
 - (4) a contribution made by a person who has not received a contribution from another person during the current election reporting cycle.

Amendment 7: In Part 6 of the ordinance in backup, amend proposed Subsection (C) of City Code Section 2-2-34 (*Reporting of Covered Transfers*) to lower the covered transfer reporting threshold from *exceeding \$500* to *meeting or exceeding \$500* as follows:

- (C) A person who makes one or more covered transfers in a City election that in the aggregate meet or exceed \$500 shall report:

Amendment 8: In Part 6 of the ordinance in backup, replace the proposed Subsection (C)(8) of City Code Section 2-2-34 (*Reporting of Covered Transfers*) with the following language:

- (8) except as provided in subsection (C)(8)(c), when the person making the transfer has accepted a contribution from another person during the current election reporting cycle:
 - (a) in the case of a transfer exclusively paid for by funds contained in a segregated bank account, for each contributor to the account who made contributions in an aggregate amount of \$500 or more during the current election reporting cycle that have not previously been reported under this subsection:
 - (i) the full name and address of the contributor;
 - (ii) if the contributor is an individual, the individual's occupation and employer; and
 - (iii) the date and amount of each contribution received; or
 - (b) in the case of a transfer paid for by funds other than funds contained in a segregated bank account, for each contributor who made contributions in an aggregate amount of \$500 or more during the current election reporting cycle that have not previously been reported under this subsection:
 - (i) the full name and address of the contributor;
 - (ii) if the contributor is an individual, the individual's occupation and employer; and
 - (iii) the date and amount of each contribution received.
 - (c) A person is not required to report a contribution under subsections (C)(8)(a) or (C)(8)(b) if:
 - (i) the contributor specified in writing that the contribution was not to be used for political contributions, direct campaign expenditures, or covered transfers at the time that the contribution was made to the person making the transfer, and the person making the transfer did not use the contribution for political contributions, direct campaign expenditures, or covered transfers;
 - (ii) the person making the transfer received the contribution in a commercial transaction in the

ordinary course of any trade or business conducted by the person; or

- (iii) the person making the transfer received the contribution from investments made by the person.

Amendment 9: In Part 6 of the ordinance in backup, replace the proposed Subsection (H) of new City Code Section 2-2-34 (*Reporting of Covered Transfers*) with the following language:

- (H) It is an affirmative defense to prosecution pursuant to section 2-2-34(C) that the person who makes the transfer:
 - (1) prohibits, in writing, the use of that transfer for political contributions, direct campaign expenditures, or covered transfers if the person receiving the contribution did not use the contribution for political contributions, direct campaign expenditures, or covered transfers;
 - (2) makes the transfer in a commercial transaction in the ordinary course of any trade or business conducted by that person;
 - (3) is making an investment; or
 - (4) has not received a contribution from another person during the current election reporting cycle.